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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/371,462	08/01/1999	SUBUTAI AHMAD	ELECP014	9262

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Lee Van Pelt, Esq
Van Pelt & Yi LLP
4906 El Camino Real Suite 205
Los Altos, CA 94022

[REDACTED] EXAMINER

GREENE, DANIEL L

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/371,462	AHMAD ET AL.
	Examiner	Art Unit
	Daniel L. Greene	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 30 April 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6 and 8-27 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-6, 8-27 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Response to Amendment

1. Applicant's arguments filed 4/30/03 have been fully considered but they are not persuasive.

As per the Remarks in reference to Claims 1 and 19, the Examiner presents that, a reference is to be considered not only for what it expressly states, but also for what it would reasonably have suggested to one of ordinary skill in the art. *In re DeLisle*, 160 USPQ 806 (CCPA 1969). The Applicant argues that recognizing an identity of the user and extracting "person image" renders the application original and unique. The "person image" is nothing more or less than data that a computer program can process. Sitrick deals with user image integration and tracking for use in visual presentations. Sitrick also teaches storing and recalling at a later date data for use in presentations. The various applications of the concepts of utilizing a person's image does not in itself render an application unique or original. The Applicant appears to argue that incorporation of a concept into different applications, renders the application unique and original. The Examiner suggests that, an individual could replace the words "person's image" with biometric, signature or any type of unique form only the user could have in the present application and the concepts the Applicant is presenting would not change. Therefore, the prior rejection is still applicable.

In reference to the Applicant arguing that Ginter does not teach the limitations of Sitrick, the Examiner refers the Applicant to *In re Young*, 159 USPQ 725 (CCPA 1968) which states, "One cannot show non-obviousness by attacking the references

individually where the rejection is based on a combination of references." *In re Young*, 159 USPQ 725 (CCPA 1968).

The examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re Simon*, 174 USPQ 114 (CCPA 1972); *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969).

Claims 2-6, 8-9, and 20-25 depend upon either claim 1 or 19 and are therefore not allowable for the same reasons as described above.

As per the Remarks to Claims 10 and 26, the Applicant argues that Sitrick uses traditional input devices and not video inputs. As per Col. 24, lines 34-40, Sitrick discloses, "Interface connector 213 is coupled to allow direct input of digital video input 212 from an external source ..." Also, the use of a video camera to do image capture is further taught in Col. 13-14. Therefore, the prior rejection is still applicable.

Claims 11-18, and 27 depend upon either claim 10 or 26 and are therefore not allowable for the same reasons as described above.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,425,825 B1-Sitrick [Sitrick'825], and further in view of US 6,253,193 B1-Ginter et al. [Ginter'193]

As per claim 1.

Sitrick'825 discloses;
encoding content for conversion into vision-enabled content. See at least Col.3, lines 25-67.

providing a program to decode the vision-enabled content; see at least Col. 3, lines 26-40.

receiving a video image comprising a person image of a user; see at least Col. 16, lines 26-40.

extracting the person image portion of the received video image; see at least Col. 21, lines 5-23.

recognizing an identity of the user based on said person image of the user by matching the person image of the user with an image stored in a user image database; See at least Col.26, lines 53-60.

selecting a subset of the vision-enabled content based on the identity of the user as recognized by matching the person image of the user with an image stored in a user image database; See at least Col.31, lines 9-16.

and

sending the selected subset of the vision-enabled content to the user over a network, wherein the program decodes the selected subset of the vision-enabled content and combines the image of the user with the selected subset of the vision-enabled content.

See at least Col.31, lines 9-16.

Sitrick'825 discloses the claimed invention except for the receiving payment for encoding the content. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. See at least Col.12, lines 40-62. Ginter'193 teaches that it is known to receive payment for encoding content. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment for encoding the content as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 2.

Sitrick'825 further discloses;

wherein the encoding of the content is performed via tools, See at least Col.31, lines 18-55.

Sitrick'825 discloses the claimed invention except for the payment being received in exchange for the use of tools. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.**

Ginter'193 teaches that it is known to receive payment in exchange for use of tools. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment in exchange for the use of tools as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 3.

Sitrick'825 further discloses the claimed invention except for providing an upgrade for the program, a payment being received in exchange for the upgrade. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment in providing an upgrade for the program, the payment being received in exchange for the upgrade. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment in providing an upgrade for the program, the payment being received in exchange for the

upgrade as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 4.

Sitrick'825 further discloses the claimed invention except for receiving payment based on an amount of users receiving the vision-enabled content. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment based on an amount of users receiving the vision-enabled content. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment receiving payment based on an amount of users receiving the vision-enabled content as taught by Ginter'193, since Ginter'193 states in at least Col.285, lines 40-67, Col. 286, lines 1-33, that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 5.

Sitrick'825 further discloses the claimed invention except for receiving payment based on a quantity of vision-enabled content sent. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment based on a

quantity of vision-enabled content sent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment based on a quantity of vision-enabled content as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 6.

Sitrick'825 further discloses;

wherein the vision-enabled content includes at least one of advertising content, entertainment content, and education content. See at least Col. 35, lines 42-55.

As per claim 8.

Sitrick'825 discloses the claimed invention, as discussed above, except for the step of associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group. However, Sitrick'825 does disclose expanding beyond associative replacement predefined character images. See at least Col 13, lines 30-40.

It would have been an obvious matter of design choice to modify the teachings of Sitrick'825, to provide the step of associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group.

Since the applicant has not disclosed that associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Sitrick'825 will perform the invention as claimed by the applicant with any method, means, or product to associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group.

As per claim 9.

Sitrick'825 further discloses collecting statistical data. See for example Col. 31, lines 18-60.

As per claim 10.

encoding content for conversion into vision-enabled content. See at least Col.3, lines 25-67.

providing a program to decode the vision-enabled content; see at least Col.4, lines 1-35.
sending the vision-enabled content to a user over a network, wherein the program _
decodes the vision-enabled content.; See at least Col.13, lines 55-61.

receives a series of video images, each image comprising a person image of the user;

See at least Col.13, lines 1-61

extracts from each video image the associated person image of the user to create a series of person images; See at least Col.13, lines 1-61

processes the series of person images to detect a movement by said user; and controls the vision-enabled content based on said movement. See at least Col.13, lines 1-61

Sitrick'825 discloses the claimed invention except for the receiving payment for encoding the content. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. See at least **Col.12, lines 40-62**. Ginter'193 teaches that it is known to receive payment for encoding content. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment for encoding the content as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 11.

Sitrick'825 further discloses;

wherein the encoding of the content is performed via tools, See at least Col.31, lines 18-55.

Sitrick'825 discloses the claimed invention except for the payment being received in exchange for the use of tools. However, Sitrick'825 does disclose charging a fee for

services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment in exchange for use of tools. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment in exchange for the use of tools as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 12.

Sitrick'825 further discloses the claimed invention except for providing an upgrade for the program, a payment being received in exchange for the upgrade. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment in providing an upgrade for the program, the payment being received in exchange for the upgrade. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment in providing an upgrade for the program, the payment being received in exchange for the upgrade as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 13.

Sitrick'825 further discloses the claimed invention except for receiving payment based on an amount of users receiving the vision-enabled content. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment based on an amount of users receiving the vision-enabled content. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment receiving payment based on an amount of users receiving the vision-enabled content as taught by Ginter'193, since Ginter'193 states in at least Col.285, lines 40-67, Col. 286, lines 1-33, that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 14.

Sitrick'825 further discloses the claimed invention except for receiving payment based on a quantity of vision-enabled content sent. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment based on a quantity of vision-enabled content sent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment based on a quantity of vision-enabled content as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a

commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 15.

Sitrick'825 further discloses;

wherein the vision-enabled content includes at least one of advertising content, entertainment content, and education content. See at least Col. 35, lines 42-55.

As per claim 16.

Sitrick'825 further discloses;

recognizing an identity of the user and selecting vision-enabled content being based on the identity of the user, the selected vision enabled content being sent to the user. See at least Col.35, lines 55-67, Col. 36, lines 1-20.

As per claim 17.

Sitrick'825 discloses the claimed invention, as discussed above, except for the step of associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group. However, Sitrick'825 does disclose expanding beyond associative replacement predefined character images. See at least Col 13, lines 30-40.

It would have been an obvious matter of design choice to modify the teachings of Sitrick'825, to provide the step of associating the user with a group and selecting the

selected subset of vision-enabled content based on the association of the user with the group.

Since the applicant has not disclosed that associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group solves any stated problem in a new or unexpected way or is for any particular purpose which is unobvious to one of ordinary skill and it appears that the claimed feature does not distinguish the invention over similar features in the prior art since, the teachings of Sitrick'825 will perform the invention as claimed by the applicant with any method, means, or product to associating the user with a group and selecting the selected subset of vision-enabled content based on the association of the user with the group.

As per claim 18.

Sitrick'825 further discloses collecting statistical data. See for example Col. 31, lines 18-60.

As per claim 19.

encoding content for conversion into vision-enabled content; see at least Col.3, lines 25-67.

providing a program to decode the vision-enabled content; see at least Col.3, lines 26-40.

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receiving a video image comprising a person image of a user; see at least Col. 16, lines 26-40

recognizing an identity of the user based on said person image of the user by matching the person image of the user with an image stored in a user image database; See at least Col. 26, lines 53-60.

selecting a subset of the vision-enabled content based on the identity of the user as recognized by matching the per son image of the user with an image stored in a user image database; See at least Col. 31, lines 9-16.

sending the selected subset of the vision-enabled content to the user over a network, wherein the program decodes the selected subset of the vision-enabled content. See at least Col. 31, lines 9-16.

As per claim 20.

Sitrick'825 further discloses the claimed invention except for receiving payment based on an amount of users receiving the vision-enabled content. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment based on an amount of users receiving the vision-enabled content. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment receiving payment based on an amount of users receiving the vision-enabled content as taught by Ginter'193, since Ginter'193 states in at least Col.285, lines 40-67, Col. 286, lines 1-33, that such a modification is well known in the

art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 21.

Sitrick'825 discloses the claimed invention except for receiving payment from the user in exchange for the program. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment from the user in exchange for the program. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment from the user in exchange for the program as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 22.

Sitrick'825 further discloses;

storing the vision-enabled content See at least Col. 15, lines 36-67, Col. 16, lines 1-40.

Sitrick'825 discloses the claimed invention except for receiving payment for storing the vision-enabled content. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. See at least Col.12, lines 40-62. Ginter'193 teaches that it is known to receiving payment for storing the vision-enabled content.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to receiving payment for storing the vision-enabled content as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 23.

Sitrick'825 further discloses the claimed invention except for receiving payment based on a quantity of vision-enabled content sent. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment based on a quantity of vision-enabled content sent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment based on a quantity of vision-enabled content as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 24.

Sitrick'825 further discloses collecting statistical data. See for example Col. 31, lines 18-60.

As per claim 25.

Sitrick'825 further discloses the claimed invention except for receiving payment in exchange for access to the statistics. However, Sitrick'825 does disclose charging a fee for services rendered and availability of services for purchase/license. **Col.12, lines 40-62.** Ginter'193 teaches that it is known to receive payment in exchange for access to the statistics.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive payment in exchange for access to the statistics as taught by Ginter'193, since Ginter'193 states in at least Col.8, lines 23-40 that such a modification is well known in the art for a commercial value chain that provides for the distribution, usage control, and usage payment.

As per claim 26.

Sitrick'825 discloses;
sending content to a user over a network; see at least Col. 15, lines 63-67, Col. 16, lines 1-8.

receiving a series of images of the user; see at least Col. 16, lines 26-40.
recognizing a person image of the user in at least two images comprising the series of images; see at least Col.26, lines 53-60.

controlling the content based on the person image by detecting an action by the user based on changes in the person image between the at least two images; and outputting the content. See at least Col.21, lines 3-23.

As per claim 27.

Sitrick'825 further discloses;

wherein the outputted content includes an interaction between the person image and the content. See at least Col. 21, lines 3-23.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

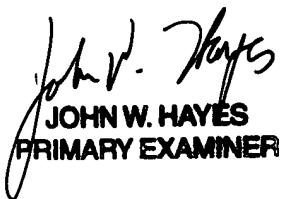
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene whose telephone number is 703-306-5539. The examiner can normally be reached on M-Thur. 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on 703-305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

DLG
July 7, 2003


JOHN W. HAYES
PRIMARY EXAMINER